

the will, because there was neither allegation *or proof* that the provision was larger than she would otherwise have been entitled to.

The defendant, by her answer in this case, and her counsel in the argument, has raised several questions upon the accounts passed by the executor in the Orphans Court. Among other objections to these accounts, it has been said that the crops and some articles of personal property on "Bland Air" did not pass by the devise to Mrs. Mayo in the second clause of the will. In construing this devise, we must of course, as in every case of the kind, ascertain, if we can, the intention of the testator, and my strong conviction is, that he did intend to give his daughter the crops and property in question. I do not think it can be fairly inferred, that he intended to give her his slaves and farm stock, and withhold from her the crops and produce of the farm essential to their support, and raised on the farm to which they belonged. Neither can I persuade myself to think that when he gave her the "Bland Air estate," and all the personal property thereon, and used with the same, that he meant to deny her the furniture in the dwelling house, which stood upon the farm and was part of the estate, and which was used by those occupying it. Although the furniture in the house may not have been used with the farm, that is, in cultivating the land, it was used with the estate, the house being of course part of the estate and the furniture being used with the house.

With regard to the objection that the commissions of the executor should have been so distributed as to be thrown upon the separate portions of the personal estate, and thus make the several legatees general and specific bear their proportions thereof, I am of opinion it cannot be maintained. It would be introducing an entirely new principle in our testamentary system, for which no authority has been, nor, as far as I am informed, can be produced.

There are other matters connected with the accounts which I shall reserve until the coming in of the report of the Auditor, to whom I shall send the cause, with instructions to state an account according to the views herein expressed, from the plead-